

February 7, 1995

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: Policies and Rules Concerning Unauthorized Changes of Consumers' Long
Distance Carriers
CC Docket No. 94-129

Stuart N. Dolgin
House Counsel &
Secretary
RECEIVED

FEB 08 1995

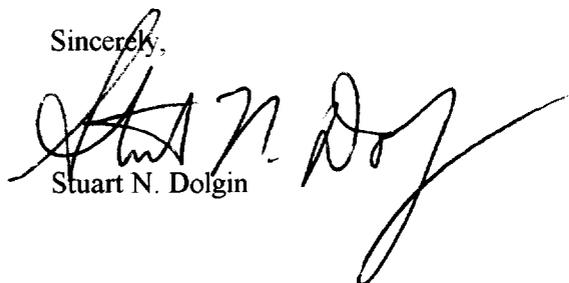
FCC MAIL ROOM

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Dear Sir or Madam:

Submitted herewith are an original and five (5) copies of the Reply Comments of Local Area Telecommunications, Inc. in the above referenced proceeding. Please Date Stamp the extra copy and return it to the undersigned in the enclosed envelope.

Sincerely,


Stuart N. Dolgin

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEB 08 1995

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IN THE MATTER OF)

POLICIES AND RULES CONCERNING)
UNAUTHORIZED CHANGES OF CONSUMERS')
LONG DISTANCE CARRIERS)

CC Docket No. 94-129

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REPLY COMMENTS OF LOCAL AREA TELECOMMUNICATIONS, INC.

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February 7, 1995

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Policies and Rules Concerning)	CC Docket No. 94-129
Unauthorized Changes of Consumers')	
Long Distance Carriers)	

**REPLY COMMENTS OF
LOCAL AREA TELECOMMUNICATIONS, INC.**

Local Area Telecommunications, Inc.(LOCATE) hereby submits its Reply Comments in the above referenced proceeding to review the Commission's policies and to propose rules regarding the unauthorized changes of consumers' long distance carriers.¹ LOCATE fully supports the Commission's proposed changes to the form and content of the Letter of Agency (LOA). LOCATE strongly believes that in order to end the practice of "slamming", not only should the consumers' bill be adjusted, but the IXC who perpetrates the unauthorized change should be sanctioned.

I INTRODUCTION AND BACKGROUND

LOCATE, one of the Nation's first competitive access providers (CAP), has been providing quality telecommunications service since the early 1980's. LOCATE's initial service offerings were limited to dedicated private line services utilizing digital microwave radios. With recent regulatory changes that have taken place, LOCATE has started providing local, long

¹ Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Notice of Proposed Rule Making, FCC 94-292 (released November 10, 1994) ("Notice")

distance and international switched services utilizing its own facilities as well as reselling the services of other carriers. It's customers are located in the New York metropolitan area. In the short period of time that LOCATE has been involved in the provision of switched long distance service, it has become intimately familiar with the problem of "slamming".

In this proceeding, the Commission proposes to modify the rules regarding the form and context of the LOA. The Commission further proposes to prohibit the attachment of any other document to the LOA and to bar IXC's from including inducements of any kind in the LOA.

II **PROTECTION OF CONSUMERS FROM UNAUTHORIZED OR UNKNOWNLY AUTHORIZED CHANGES IN LONG DISTANCE CARRIERS IS IN THE PUBLIC INTEREST**

During fiscal year 1994, the Commission received approximately 2,500 complaints regarding the unauthorized or unknowingly authorized changes of consumers' long distance carriers.² It is LOCATE's belief that there have been substantially more cases of "slamming" than those that are actually reported. LOCATE wholeheartedly supports the Commission's effort to protect the consumer. Specifically delineating the language that must be included in the LOA as well as prohibiting the inclusion of inducement language in the LOA is a step in the right direction. Inducements play an important role in the marketing of IXC services and should not be prohibited altogether. However, LOCATE fully supports the Commission's conclusion that physically separating the LOA document from the inducement will significantly reduce confusion over the LOA.³ In order to further ensure that the consumer knows that he or she is authorizing the change in long distance carrier, the language stating this in the LOA should be in bold type-face and capitalized.

² See Notice at para. 1.

³ See Notice at para. 12.

III **CONSUMERS' LONG DISTANCE CHARGES SHOULD BE ADJUSTED WHEN UNAUTHORIZED PIC CONVERSIONS OCCUR**

Consumer's long distance charges must be adjusted when they are the victims of an unauthorized PIC conversion. It should not be the consumers' responsibility to show the economic effect of the unauthorized PIC. If a consumer is wrongfully PICed over, the IXC should bear the responsibility. The consumer should not be obligated to pay anything to an unauthorized long distance carrier. A carrier that wrongfully PICs a number, whether intentionally or negligently, should not reap any financial gain from its actions.

IV **THE EFFECTS OF "SLAMMING" ARE ANTICOMPETITIVE AND IXCs THAT ENGAGE IN THE PRACTICE SHOULD BE HELD ACCOUNTABLE, NOT ONLY TO THE CONSUMER, BUT TO THE WRONGFULLY "SLAMMED" IXC; LECs MUST RESPOND TO CHALLENGES BY THE "SLAMMED" IXC**

As stated above, LOCATE has only started providing long distance service in the New York area utilizing its own facilities and reselling the services of other carriers within the last year. In this short time, several of LOCATE's customers have been the victims of "slamming". The Commission in this proceeding has overlooked the adverse impact of "slamming" on new entrants to the competitive long distance industry, and the resulting harm to the consumer. Without severely punishing the IXC that wrongfully PICs a customer, the Commission's goal of protecting the consumer will not be fully realized.

The following is a typical scenario that LOCATE and other new entrants into the long distance business have experienced: A LOA is obtained from a customer to authorize the LEC to PIC over the customer to LOCATE. The LEC will send confirmation that the customer was changed to LOCATE. Subsequent to that confirmation the customer will be "slammed" back to its previous carrier. LOCATE will become aware of this slam back by either receiving notification from the LEC or from an irate customer who received a bill from the unauthorized carrier. Rather

than spending time and effort to switch back to LOCATE service, the customer simply will not utilize LOCATE service.

By allowing this type of action to take place without imposing sanctions on the IXC that PICs with out authorization, competition is severely restricted. Actions that restrict competition adversely affect the ability of consumers to choose their service provider. Therefore, the Commission should impose penalties on IXCs that practice “slamming.” As stated above, LOCATE suggests that the IXC that “slams” be prohibited from collecting any fees from the victim of the “slam” (the end user customer).

In addition, the LEC should be required to investigate all challenges to alleged wrongful PIC changes. If the investigation indicates an unauthorized change, the unauthorized carrier and the LEC must be required to change the customer back to the authorized carrier. LOCATE’s experience in New York has been extremely frustrating. While LOCATE is required to obtain a LOA or other authorization, the LEC does not want to receive a copy of the LOA. When LOCATE has challenged an alleged wrongful PIC, the LEC has simply responded that there must be a later LOA. The LEC must be required to investigate challenges so that the customer receives service from the carrier it has chosen.

Finally, if an investigation reveals an unauthorized PIC, the “slamming” carrier should be required to issue a written apology to the customer advising the customer that he was wrongfully PICed and that he has been changed back to the carrier of his choice. No other information (inducements, etc.) should be included in this letter and a copy of the letter should be provided to the “slammed” carrier.

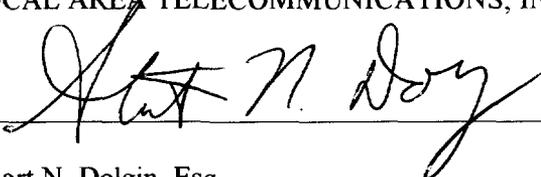
V CONCLUSION

For the foregoing reasons, LOCATE supports the proposed rule changes to protect consumers from unauthorized or unknowingly authorized changes in long distance carriers.

LOCATE respectfully requests that rules be codified providing for sanctions to be imposed on the IXC that allows the unauthorized change to occur and that the LEC be required to investigate allegations of unauthorized changes.

Respectfully submitted,

LOCAL AREA TELECOMMUNICATIONS, INC

A handwritten signature in black ink, appearing to read "Stuart N. Dolgin", is written over a horizontal line. The signature is cursive and somewhat stylized.

Stuart N. Dolgin, Esq.

Date: February 7, 1995